

## Introduction

On behalf of American Bottom Conservancy (“ABC”), the Washington University Interdisciplinary Environment Clinic requests the following documents pursuant to the Freedom of Information Act (FOIA):

All communications between the EPA Office of the Administrator and Veolia ES Technical Solutions, LLC (“Veolia”) (including their respective agents, employees, and consultants, and in Veolia’s case, including the agents, employees, and consultants of its parent and affiliate companies). This includes but is not limited to:

- (1) Communications related to Veolia’s February 15, 2017 appeal of Title V Permit No. V-IL-1716300103-2014-10 including but not limited to discussions about modifying the permit and/or resolving Veolia’s claims in the appeal.
- (2) Communications related to the meeting between Administrator Pruitt, his chief of staff, Veolia, and Veolia’s consultant referenced in the attached email from Joseph Kellmeyer to Susan Gardinier dated March 31, 2017, including documents related to scheduling the meeting, participant notes, and documents regarding any follow-up related to the meeting or topics discussed, including but not limited to the Administrator’s review of “next steps in Veolia’s permitting process” and his determination regarding “a clear path forward.”

For purposes of this request, the term “communications” refers, but is not limited, to letters, e-mails, meeting notes, and any other documents created, received, or retained by EPA and the Office of the Administrator. The time period covered by this FOIA request is January 17, 2017 through November 1, 2017.

## Fee Waiver

The American Bottom Conservancy, which protects the environment and public health in Illinois through advocacy and education, satisfies the criteria for a fee waiver per 40 C.F.R. § 2.107(l)(2) and (3):

(2)(i) *Whether the subject of the requested records concerns “the operations or activities of the government.”* The requested records were generated/received by EPA Office of the Administrator between the issuance of a Title V Permit and the settlement of an appeal of that permit at the Environmental Appeals Board. The documents relate to EPA’s activities in issuing the permit and resolving the appeal.

(2)(ii) *Whether the disclosure is “likely to contribute” to an understanding of government operations or activities.* The records provide insight into EPA’s permitting process and its decisions regarding the permit.

(2)(iii) *Whether disclosure of the requested information will contribute to “public understanding.”* ABC, with the assistance of the Interdisciplinary Environmental Clinic, will

analyze and communicate information from the released documents. ABC is in communication with members of the press and will make public the documents obtained through this FOIA request. ABC will also inform the public about participating in the permitting process and public hearing which may be held this summer.

*(2)(iv) Whether disclosure is likely to contribute “significantly” to public understanding of government operations or activities.* ABC is the only active environmental group in an environmental justice community. The request fills a gap in the understanding of government operations during permitting decisions were made, and there is significant public benefit to understanding these decisions which will affect the daily lives of those living in the area surrounding the permittee’s facility.

*(3)(i) The existence and magnitude of a commercial interest and (3)(ii) The primary interest in disclosure.* ABC is a public interest organization with no commercial interest in the requested documents. Its sole interest in disclosure is the public interest.

**To:** Gardinier, Susan[Gardinier.Susan@epa.gov]  
**Cc:** Kellmeyer, Joseph[JKELLMEYER@thompsoncoburn.com]; Kemper, Ryan  
Russell[RKemper@thompsoncoburn.com]; Garypie, Catherine[garypie.catherine@epa.gov]; Krallman,  
John[krallman.john@epa.gov]; Steinbauer, Gary[steinbauer.gary@epa.gov]  
**From:** Kellmeyer, Joseph  
**Sent:** Fri 3/31/2017 10:47:24 PM  
**Subject:** FW: Veolia ADR: Conference call next Tuesday

Susan –

Thank you for your e-mail. Veolia remains dedicated to resolving this matter with USEPA.

Unfortunately, despite Veolia's request, Gary's March 22<sup>nd</sup> e-mail failed to provide Veolia with the name and title of an EPA representative who had decision making and ultimate binding authority for the ADR process.

In light of the clear message contained within David Schnare's March 2<sup>nd</sup> e-mail that the Chief Administrator's office wished to be involved in matters such as this and the lack of clarity in Gary's e-mail, Veolia felt necessary to contact and meet with EPA's headquarters in Washington D.C. Veolia and Veolia's consultant therefore met with Administrator Pruitt and his chief of staff this past week. I did not attend the meeting. It is my understanding that Administrator Pruitt is currently reviewing the next steps in Veolia's permitting process. Therefore, I suggest that we delay the ADR process until Administrator Pruitt has finished his review and a clear path forward is determined. I am certain that all parties involved do not wish to proceed in a manner inconsistent with Administrator Pruitt's desires.

I appreciate your anticipated cooperation in this regard and will be back in touch once Administrator Pruitt provides a path forward.

**Joseph M. Kellmeyer**

[jkellmeyer@thompsoncoburn.com](mailto:jkellmeyer@thompsoncoburn.com)

P: 314.552.6166

F: 314.552.7000

M: 314.602.6166

**Thompson Coburn LLP**

One US Bank Plaza

St. Louis, Missouri 63101

**From:** Gardinier, Susan [<mailto:Gardinier.Susan@epa.gov>]

**Sent:** Thursday, March 30, 2017 3:37 PM

**To:** Kellmeyer, Joseph; Kemper, Ryan Russell; Chamberlain, Sara L.; Harner, Benjamin S.; Garypie, Catherine; Steinbauer, Gary; Krallman, John

**Cc:** Avila, Aaron

**Subject:** Veolia ADR: Conference call next Tuesday

Good afternoon,

This is a reminder that we have the ADR status conference scheduled for Tuesday, April 4, at 3 pm Eastern Time/2 pm Central Time. Again, the call should last between 30 and 45 minutes, and we will use the time to discuss the parameters of the ADR proceeding as well as logistics for conducting the ADR.

In addition to Judge Avila and myself, thus far we have confirmed that Catherine Garypie and Gary Steinbauer will join the call on behalf of Region 5, and John Krallman from EPA's Office of General Counsel will also participate.

Counsel for Veolia: please "reply all" to this message and confirm who will be participating in the call next Tuesday.

Please use the following information to join the conference call next Tuesday:

**Conference Line: (866) 299-3188**

**Conference Code: 2022330122#**

As mentioned in my previous email, Judge Avila would like to receive your confidential issue summaries no later than Friday, April 14. In addition, each party's signed agreement to participate in the ADR must be submitted no later than Friday, April 14. We can answer any questions you may have about the issue summaries or the agreement to participate on Tuesday's call.

Thank you for your cooperation, and we look forward to speaking with you next Tuesday.

Regards,

Judge Aaron Avila and Susan Gardinier Kimball, Senior Counsel to the Board

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